

1 MICHAEL J. SHEPARD (SBN 91281)

2 *mshepard@kslaw.com*

3 **KING & SPALDING LLP**

4 50 California Street, Suite 3300

San Francisco, CA 94111

Telephone: +1 415 318 1200

Facsimile: +1 415 318 1300

5 KERRIE C. DENT (Admitted *pro hac vice*)

6 *kdent@kslaw.com*

7 **KING & SPALDING LLP**

8 1700 Pennsylvania Avenue, NW, Suite 900

Washington, DC 20006-4707

Telephone: +1 202 626 2394

Facsimile: +1 202 626 3737

9 CINDY A. DIAMOND (SBN 124995)

10 **ATTORNEY AT LAW**

11 *cindy@cadiamond.com*

12 58 West Portal Avenue, # 350

San Francisco, CA 94127

Telephone: +1 408 981 6307

13 Attorneys for Defendant

ROWLAND MARCUS ANDRADE

14 UNITED STATES DISTRICT COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16 SAN FRANCISCO DIVISION

17 UNITED STATES OF AMERICA,

18 Plaintiffs,

19 v.

20 ROWLAND MARCUS ANDRADE,

21 Defendants.

Case No. 3:20-CR-00249-RS-LBx

**DEFENDANT ROWLAND MARCUS
ANDRADE'S RESPONSE TO THE
COURT'S QUESTIONS ABOUT
REDACTED MATERIAL SUPPORTING
MOTION TO COMPEL AND ABOUT
ADDITIONAL BRIEFING, AND REQUEST
FOR HEARING**

1 Defendant Marcus Andrade submits this response to the Court's questions, raised at the
 2 discovery hearing on February 9, 2023, about (1) whether the defendant should consider
 3 unsealing portions of the declaration filed in support of his motion to compel to help the
 4 government understand the relevance of his pending discovery request for materials relating to
 5 Erickson, Butina, and Levin, and (2) whether the defendant would like to file an additional brief
 6 in light of the production of new material after his brief in support of his motion to compel was
 7 filed on November 23, 2022.

8 **I. DISCLOSURES OF EVIDENCE SUPPORTING DEFENDANT'S REQUEST FOR**
 9 **MATERIALS RELATING TO ERICKSON, BUTINA, AND LEVIN**

10 In response to the government's statement that it could not understand the relevance of
 11 Maria Butina, Paul Erickson and Alexander Levin to Mr. Andrade's case because Mr. Andrade's
 12 brief in support of his motion to compel, and Ms. Dent's supporting declaration, were redacted,
 13 the Court queried whether the Defendant should consider unsealing portions of the declaration.
 14 The defense has done so and determined that it has nothing more to share with the government
 15 because it already has provided the government with all of the evidence it relies on to support its
 16 request for materials relevant to Butina, Erickson, and Levin. Because of the importance of these
 17 materials to Mr. Andrade's defense, every document important to the argument he made to the
 18 court about the relevance to this case of Butina, Erickson and Levin was identified for the
 19 government and discussed with the prosecutors multiple times, in meet-and-confer sessions with
 20 the government before and after his motion was filed, as well as in the joint letter to the court
 21 dated February 3, 2023.¹

22 ///

23 ///

24 ///

25
 26 _____
 27 ¹ Defense counsel discussed with the government the evidence supporting requests for materials relating to Butina,
 28 Erickson, and Levin: during an October 1 meet and confer; in an October 14 letter; at this Court's December 22
 hearing; and in a January 2023 meet-and-confer.

Thus, the documents necessary to understand the pending set of discovery requests are all currently known to, and possessed by (and were in fact produced by), the government:

- **Exhibit 11**, a 302 produced by the government, which is a partial review of evidence from one of Abramoff's cell phones, establishes that Levin communicated with Abramoff frequently during the relevant timeframe, that Abramoff introduced Levin to AML Bitcoin, and that Levin's payments to Abramoff for his consulting services were paid into the same Landfair Capital account controlled by Abramoff, funded in part by Erickson, and used for AML Bitcoin's transactions and purchases of its tokens.
- **Exhibit 21**, a recording produced by the government, reflects that FBI agents seized documents relating to AML Bitcoin from Butina's home in an August 2018 search.
- **Exhibit 34**, a summary of Abramoff's proffer interview which, among other things, indicates the AML Bitcoin-related television show under production by Abramoff involved Levin in its funding and planning stages.

Lastly, after the December 22 hearing, the government produced the AML Bitcoin documents that agents found in Butina's home, which the government advised included extensive notes in Erickson's handwriting, which (together with other evidence) show, among other things, Erickson's abiding attention to AML Bitcoin, his recognition of the value of its patented biometric identification verification technology, and his plan to meet with Abramoff about it behind Mr. Andrade's back. This exhibit, too, was discussed at length with the government after it was produced (including a reading and explanation of the important passages), and before the February 9, 2023 hearing, the defense filed an Administrative Motion to include this exhibit in the record, under seal, as **Exhibit 44**.

As a result, there are no secrets from the government concerning the request currently before the Court.

II. ADDITIONAL BRIEFING AND A HEARING

Mr. Andrade appreciates the Court's willingness to review the declaration in support of his motion to compel, but as noted in the hearing on February 9, his argument has become stronger in light of the government's production of the Butina documents on January 4, 2023

1 (after 10 months of its insistence that it was irrelevant and was simply an example of Mr.
2 Andrade's requesting discovery based only on conspiracy theories). Mr. Andrade would like to
3 address the new material, as well as other concerns raised by the Court at the conclusion of the
4 hearing. He therefore accepts the court's offer of filing an additional brief, and he is meeting and
5 conferring with the government on a briefing schedule to propose to the court. The schedule will
6 include a proposed hearing date, and Mr. Andrade asks if the court will allow an hour for
7 argument on Mr. Andrade's request for evidence that is essential to the preparation of his
8 defense.

10 RESPECTFULLY SUBMITTED,

11 DATED: February 15, 2023

KING & SPALDING LLP

13 By: /s/ Michael J. Shepard
14 MICHAEL J. SHEPARD
15 KERRIE C. DENT (*Pro Hac Vice*)
16 CINDY DIAMOND

17 Attorneys for Defendant
18 ROWLAND MARCUS ANDRADE